

**EFFECTIVE**

May 1, 2013.

**Subject**

Bridges Hearing Pilot Policy

**EXPLANATION OF  
PILOT POLICY**

The policy contained in the Bridges hearing pilot policy is for DHS county offices that are participating in the hearings pilot for assistance payment programs. The pilot counties are:

- Genesee County, effective May 2013.
- Washtenaw County, effective July 2013.
- Jackson County, effective September 2013.

The following requests for hearings are not included in this pilot and are not subject to this policy; they are covered in Bridges Administrative Manual (BAM) 600, Hearings:

- Intentional Program Violations (IPV).
- Debt collections.
- Michigan Department of Community Health (DCH) hearings.
- Community spouse resource allowances.
- Requests that dispute a Medical Review Team (MRT) disability determination-including State Disability Assistance (SDA) and Medicaid (MA)-based on disability.

**Note:** SDA and MA hearing requests based on eligibility factors are included in the pilot policy.

BAM 600, Hearings, remains in effect for all counties and programs not specifically mentioned in this policy.

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**DEPARTMENT  
POLICY**

**Family Independence Program (FIP), State Disability Assistance (SDA) (Eligibility), Refugee Cash Assistance (RCA), Food Assistance Program (FAP), Medicaid (MA) (Eligibility), Child Development and Care (CDC) and State Emergency Relief (SER)**

Clients have the right to contest a department decision affecting eligibility or benefit levels when they believe the department has taken an action in error. The department provides a two-step hearing process to review the decision and determine appropriateness. The following policy meets the federal and state requirements for a hearing.

Step One: A local evidentiary hearing conducted by a hearing official. There are appeal rights from the local evidentiary hearing to a state level administrative hearing system.

Step Two: A state level hearing with Michigan Administrative Hearing System (MAHS).

**Efforts to clarify and resolve the client's concerns must start when the hearing request is received and continue through the day of the hearing.**

**NOTICE  
REQUIREMENTS**

**FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

The application forms and each written notice of case action must inform clients of their right to a hearing. This includes an explanation of how and where to file a hearing request, and the right to be assisted by and represented by anyone the client chooses.

The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify:

- The action being taken by the department.
- The reason(s) for the action.
- The **specific manual item(s)** that cite(s) the legal base for an action, or the regulation, or law itself; see BAM 220.

***Exception:*** Do not provide a notice of case action when implementing a hearing decision where the department was upheld. The decision serves as notice of the action.

## HEARING REQUESTS

### FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER

All clients have the right to request a hearing. The following people have authority to exercise this right by signing a hearing request:

- An adult member of the eligible group; **or**
- The client's authorized hearing representative (AHR).

Requests for a hearing **must be made in writing and signed** by one of the persons listed above. The request must bear a signature. Faxes or photocopies of signatures are acceptable. The hearing official will deny requests signed by unauthorized persons and requests without signatures.

***Exception:*** For **FAP only**, a hearing request may be written or oral. If oral, complete the DHS-18, Request for Hearing, and ask the client to sign it, or note on the hearing summary that the request was oral.

A hearing request with a client signature may name an authorized hearing representative who is authorized to stand in for or represent the client in the hearing process.

Clients, authorized representatives and/or their authorized hearing representative may express dissatisfaction with a department action, orally or in writing, without specifically requesting a hearing. Determine whether the client or authorized hearing representative actually wishes to request a hearing. If so, ensure that the request is put in writing. The DHS-18, Request for Hearing, or the hearing request section of the client notice may be used. Note the date of receipt of the original written request on the form/notice; see RFF 18.

All hearing requests **must** be recorded in Bridges, on the Hearing Restore Benefits screen; see Timely Hearing Requests in this policy.

## Where to File a Hearing Request

### FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER

Instruct clients or authorized hearing representatives to deliver, mail or fax the hearing request to their local DHS office labeled, "ATTENTION HEARINGS COORDINATOR". The hearings coordinator receives the request on behalf of the department. Route all hearings-related material through the hearings coordinator without regard to whom it is addressed.

All hearings requests received must be date-stamped and forwarded immediately to the hearings coordinator. If the hearing request is received by a local office that is not responsible for the disputed action, date-stamp the request and **forward it immediately to the correct local office** labeled, "ATTENTION HEARINGS COORDINATOR".

For hearing requests related to Department of Community Health (DCH) determinations, follow procedures in DCH HEARINGS in BAM 600, Hearings.

## Requests Signed by an AHR

### FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER

The appointment of an authorized hearing representative **must be made in writing**. An authorized hearing representative must be authorized or have made application through probate court **before** signing a hearing request for the client.

Verify the authorized hearing representative's prior authorization unless the authorized hearing representative is the client's attorney at law, parent or, for **MA only**, spouse. Relationship of the parent or spouse must be verified only when it is questionable. The hearing official will deny a hearing request when the required verification is **not** submitted.

The following documents are acceptable verification sources:

- Probate court order or court-issued letters of authority naming the person as guardian or conservator.
- Probate court documentation verifying the person has applied for guardianship or conservatorship.

- Authorization signed by the client authorizing this person to represent the client in the hearing process.
- Birth or marriage certificate naming the person as parent or spouse.

Note any known information about the identity of the person who signed the request (for example, a spouse) on the DHS-3050, Hearing Summary. Attach a copy of any required verification document to the DHS-3050 and forward to the hearings coordinator.

Process requests signed by someone whose authorized hearing representative status is questionable or unverified according to standard hearings procedures, including restoration of benefits, if appropriate. If the hearing official denies the request, reimplement the disputed case action and recoup the restored benefits; see Recouping Program Benefits in this policy.

### Deadlines for Requesting a Hearing

#### FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be **received** in the local office as required in, "Where To File a Hearing Request", found in this pilot policy.

**Note:** Days, as used in this policy, mean calendar days unless otherwise specified.

**Exception:** For **FAP only**, the client or authorized hearing representative may request a hearing disputing the current level of benefits at any time within the benefit period.

See "Timely Hearing Request" in this policy if a request is received:

- Within the negative action period.
- Within 11 days of the effective date of an immediate negative action (such as with adequate notice).

For requests that do **not** meet the definition of a timely hearing request, see "Untimely Hearing Request" in this policy.

## Requests for Telephone Hearings

### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

Local evidentiary hearings will be scheduled as in-person hearings. Requests for a telephone hearing must be directed to the prehearing conference supervisor (identified on the local evidentiary hearing notice) and granted by the supervisor (or his/her backup) before a telephone hearing can be conducted. Telephone hearings should be granted only in situations outside the control of the client and/or the authorized hearing representative. Examples of situations outside the control of the client and/or authorized hearing representative include, but are not limited to;

- Hospital admission, documented by an admission or discharge note.
- Inclement weather.
- Incapacitating illness, documented by a physician note.

## Granting a Hearing

### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

The hearing official may grant a hearing on any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For **FAP only**, the current level of benefits or denial of expedited service.600.rtf - #BAM#600#BAM#600#1297346018#

## Denial of a Hearing Request

### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

**Only the hearing official may deny a request for a hearing. Accept and forward all hearing requests to the hearings coordinator.**

For all inappropriate requests and/or requests filed more than 90 days from the date of the notice of case action, do the following:

- Complete a DHS-3050, Hearing Summary, stating:

- Why the request should not be heard.
  - The request was received after 90 days from the date of the notice of case action (attach a copy of the notice).
- Forward the hearing request and the summary to the hearings coordinator.

The hearing official will inform the client (referred to as the claimant), the authorized hearings representative and the hearings coordinator if the request is denied.

The hearing official will **not** grant a hearing regarding the issue of a mass update required by state or federal law **unless** the reason for the request is an issue of incorrect computation of program benefits or patient-pay amount. Central office may issue separate instructions regarding deletion of pending negative actions and forwarding of hearing requests to hearing coordinator for disposition.

## STANDARDS OF PROMPTNESS

### FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER

Final action on hearing requests, including implementation of the local evidentiary hearing decision, must be completed within 90 days of the date the hearing request was first received (the Standard of Promptness) by any local office or at DHS central office.

For **FAP only**, final action on hearing requests involving only FAP or FAP and any other program (for example, SDA, MA, CDC) must be completed within 45 calendar days of receipt of the written or oral request for hearing.

**Exception:** When a hearing request is for FIP and FAP ONLY, the FIP timeliness standard of 90 days may be applied.

### Local Office Time Limits

### FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER

Local offices have **one** business day from receipt of hearing request to do **all** of the following:

- Date-stamp the request.

- Route to the hearings coordinator.

Local Evidentiary Hearings: The local office has **10** days from the date the decision was mailed to implement the local evidentiary hearing decision.

Administrative Reviews: The local office will have **10** days from the date a decision and order is mailed from the Michigan Administrative Hearing System to implement the decision and order.

### Hearing Coordinator (HC)Time Limits

The hearings coordinator has **two** business days from the date the hearing request is received to do **all** of the following:

- Enter into the administrative management tribunal system (ADMTS).
- Log the request on the DHS-1940, Hearing Record.
- Determine the nature of the complaint.
- Schedule a prehearing conference with a first line for the 11th calendar day from the receipt of the request for hearing, but no later than the 14th calendar day.

**Note:** See Prehearing Conference, FAP Only in this policy.

- Mail the notice of a prehearing conference to the authorized hearing representative and the client.
- Notify all appropriate staff, such as first-line supervisor, child support specialist, quality control auditors, work participation program representative, family independence specialist (FIS)/eligibility specialist (ES) or the Office of the Inspector General (OIG) of the date and time of the prehearing conference.
- Request verification of the authorized hearing representative's authorization, if needed.

For hearing requests disputing:



- Determinations made by the medical review team, follow policy in BAM 600, Hearings.
- Determinations made by DCH; follow BAM 600, Hearings, policy.
- Determinations made by the Office of Child Support (OCS) or a prosecuting attorney's office (PA), a copy of the Request for Hearing **must** be faxed to the office that initiated the adverse action within 24 hours of receipt. The fax cover sheet **must** include:
  - "Local Evidentiary Hearing -Time Sensitive".
  - Contact information for both the family independence manager (FIM)/assistance payments (AP) supervisor and the hearings coordinator.
  - Date and time of the prehearing conference.

When an individual did not appear for the prehearing conference or the issue could not be resolved, a local evidentiary hearing must be scheduled for the 11th calendar day from the date of the scheduled prehearing conference.

**Note:** When the 11th day falls on a non-work day the local evidentiary hearing must be scheduled as soon as possible but, no later than the 14th calendar day from the scheduled prehearing conference.

The hearings coordinator must do all of the following at the conclusion of the prehearing conference:

- Schedule a local evidentiary hearing in ADMTS.
- Provide client and authorized hearing representative, if any, a copy of all of the following:
  - Notice of Local Evidentiary Hearing.
  - Copy of the DHS 3050, Hearing Summary, and all evidence used in making the eligibility determination that caused the action in dispute.
  - DHS Proof of Service, signed by the hearings coordinator indicating that the documents were provided to the authorized hearing representative, or if none, the client.

**Note:** A copy of all items listed above must be placed in the hearings packet.

### **Local Evidentiary Hearing Official Time Limits**

The hearing official has **15** days from the scheduled prehearing conference date to conduct a hearing, render a local evidentiary hearing decision and mail it to the local office, the client and the authorized hearing representative, if any.

### **Local Controls**

#### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

A DHS-1940, Hearing Request Record, or its equivalent must be maintained by the hearings coordinator. The coordinator is responsible for tracking the progress of the hearing request from receipt through disposition; see RFF 1940.

**Note:** A copy of the hearing request record must be made available to central office upon request.

### **Requests for Adjournment**

#### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

The client, authorized hearing representative or local office may request an adjournment of a scheduled local evidentiary hearing. The authorized hearing representative or, if none, the client, may request an adjournment up to 48 hours in advance of the local evidentiary hearing. A request for adjournment must be made in writing to the hearings coordinator identified on the Local Evidentiary Hearing Notice.

The local office must request an adjournment from the hearings coordinator. If the adjournment is granted, the local evidentiary hearing is rescheduled, and a new Notice of Hearing is mailed to everyone who received the original notice.

If an adjournment is granted at the request of the client or authorized hearing representative, the standard of promptness is extended for as many days as the local evidentiary hearing is postponed.

Adjournments requested by the local office do not extend the standard of promptness.

**Exception #1:** For **FAP only**, the hearing coordinator **must** grant one adjournment of a scheduled hearing requested by the client or authorized hearing representative. It **cannot** exceed 30 days unless good cause is shown.

## HEARING REQUEST EVALUATION

**FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

Resolve disagreements and misunderstandings quickly at the lowest possible level to avoid unnecessary hearings.

On receipt of a hearing request, schedule a prehearing conference with the authorized hearing representative or, if none, the client, and conduct a supervisory review.

The client or authorized hearing representative is **not** required to phone or meet with any department staff in order to have a hearing.

## Supervisory Evaluation

**FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

On receipt of the hearing request from the hearings coordinator, the first-line supervisor:

- Reviews the disputed case action for accuracy according to policy and fact; see Corrected Case Action in this policy.
- Determines if the request is timely; see INTERIM PROGRAM BENEFITS PENDING THE HEARING in this policy.

## Corrected Case Action

**FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

If the local office determines that the case action needs to be corrected, do the following:

- Update Bridges with the corrected information, including corrected Circumstance Start Change Date (CSCD) dates. Any benefits owed will be issued when Electronic Determination

Benefit Calculation (EDBC) and certification is completed. This will result in a new Notice of Case Action being generated to the client. Ensure the authorized hearing representative, if one, is sent the notice.

- For **Interim Assistance Recovery disputes**, central office payment reconciliation staff will process corrective payments.
- For **state Social Security Income (SSI) Payments**, central office SSI payments unit staff will process corrective payments.
- Include a short summary of the actions the local office took to correct all of the client's concerns on the DHS-3050, Hearing Summary. Include a copy of the Notice of Prehearing Conference.
- The DHS-3050, Hearing Summary, cannot ask the Michigan Administrative Hearing System to dismiss the request for hearing.
- At the prehearing conference, explain the action taken and provide the authorized representative, or if none, the client, a copy of the new notice of case action.

### **MA Only**

If a DHS denial is overturned on appeal by a hearing official, an administrative law judge or a court, send or give the client a DHS-334, Reimbursement Notice.

### **Prehearing Conference**

### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

The department must assure that clients receive the services and assistance to which they are entitled. Concerns expressed in the hearing request should be resolved whenever possible through a conference with the client or authorized hearing representative rather than through a hearing.

The spokesperson for the local office at the prehearing conference may be anyone from the county director to a first-line supervisor. Whoever is assigned this function, however, acts on behalf of the county director.

A DHS prehearing conference notice **must** be generated and mailed to the client and authorized hearing representative upon receipt of a hearing request.

A prehearing conference must be scheduled for the 11th day from the date the local office receives the request, **unless** the authorized hearing representative or, if none, the client, chooses **not** to attend the prehearing conference.

**Note:** When the 11th day falls on a non-work day, the prehearing conference must be scheduled as soon as possible but, no later than the 14th calendar day from the date the request was received in the local office.

**Note:** All attempts must be made to accommodate an authorized hearing representative or, if none, the client's request to schedule and hold a prehearing conference prior to the 11th day.

All appropriate staff (for example, first-line supervisor, child support specialist, work participation program representative, FIS/ES, RS or OIG) **must** be notified of the prehearing conference and **must** participate.

**Note:** When the disputed case action involves an Office of Child Support/prosecuting attorney determination, Office of Child Support/prosecuting attorney staff **must** participate in the prehearing conference.

Do all of the following at the prehearing conference:

- Determine why the client or authorized hearing representative is disputing the DHS action.
- Review any documentation the client or authorized hearing representative has to support his allegation.
- Explain the department's position and identify and discuss the differences.
- Mention to clients the availability of reimbursement for child care or transportation costs incurred in order to attend the hearing; see Reimbursement for Transportation and Child Care in this policy.

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**State-funded Family Independence Program (FIP) and SDA Only**

Contact the local office interim assistance reimbursement (IAR) liaison when the disputed action involves computation by central office payment reconciliation staff of the amount of retroactive SSI benefits recovered from a state-funded FIP or an SDA recipient who signed a repay agreement (**Interim Assistance Recovery**). The liaison **must**:

- Obtain documentation supporting the calculations from payment reconciliation staff.
- Arrange for payment reconciliation staff to participate in the prehearing conference.

**FAP Only**

For a denial of **expedited service only**, inform clients or authorized representatives that they may request a prehearing conference if they do **not** agree with the DHS decision. The conference must be held within **two** workdays of the request, **unless** the client requests that it be scheduled later. The following persons must attend the conference:

- Specialist's supervisor and/or the local office director or designee.
- Client, authorized representative or authorized hearing representative.

The specialist is **not** required to attend but may attend at local office option.

**LOCAL  
EVIDENTIARY  
HEARING  
PREPARATION**

A hearing packet is the DHS-3050, Hearing Summary, and all evidence the department used in making the eligibility determination that is in dispute.

A copy of the hearings packet must be provided to:

1. The client.
2. Authorized hearing representative, if the client has one.
3. The hearing official.

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## Hearing Summary

### 4. The case file.

#### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

Complete a DHS-3050, Hearing Summary, and attach all evidence used in making the eligibility determination in dispute, if the dispute is **not** resolved at a prehearing conference. All case identifiers and notations on case status must be complete; see RFF 3050.

The narrative must include all of the following:

- Clear statement of the case action, including all programs involved in the case action.
- Facts which led to the action.
- Policy which supported the action.
- Correct address of the authorized hearing representative or, if none, the client.
- Description of the documents the local office intends to offer as exhibits at the hearing.

**Exception #1:** For hearing requests disputing state SSI payments; see STATE SSI PAYMENT in this policy.

**Exception #2:** For hearing requests disputing the Office of Child Support/prosecuting attorney actions, attach a supplemental hearing summary completed by Office of Child Support/prosecuting attorney detailing actions taken and all evidence provided by the Office of Child Support/prosecuting attorney.

#### **State-funded FIP and SDA Only**

For **Interim Assistance Recovery (IAR) disputes**, prepare the hearing summary using documents obtained by the local IAR liaison from central office payment reconciliation staff. Attach copies of those and any other supporting documents to the hearing summary and forward to the hearings coordinator.

#### **MA Only**

When a hearing request based on a Medicaid denial is received, send or give the client a DHS-333, Retroactive Period/Corrective Action Eligibility Notice. This notice explains the potential for reimbursement of paid medical expenses after a DHS denial that is

overturned on appeal by a hearing official, an administrative law judge or a court. To be eligible for reimbursement, the payment must be for a Medicaid-covered care or service that is provided on or after February 2, 2004. If the client is to be notified of an overturned Medicaid eligibility decision, send or give the client a DHS-334, Reimbursement Notice.

A client may be eligible for reimbursement of medical expenses paid to providers for a retroactive eligibility period Medicaid-covered care or service. A medical payment for care or services received in a client's retroactive period may be reimbursable if it is made between a DHS denial and 10 days after the date an eligibility determination is issued as a result of the hearing request.

A client may also be eligible for corrective action reimbursement of medical expenses paid to providers for care or services received after the DHS application. The corrective action period covers medical expenses paid to providers between the date a DHS administrative hearing request is filed and 10 days after the date an eligibility determination is issued as a result of the hearing request. The client must show that the original denial was incorrect for corrective action reimbursements.

**Example:** A client submits his income and expense information, but forgets to include proof of health insurance premiums or child support payments and is denied due to excess income. If the client appeals the DHS denial and provides the missing information, this could allow the initial denial, correct when issued, to be overturned. If the care or service for which the client made the medical payment was received after the client's application that resulted in the DHS denial, the payment would not be eligible for reimbursement.

**Example:**

- February 20 application for Medicaid and retroactive Medicaid is received by DHS.
- April 5 the application is denied.
- May 3 a hearing request is received in the local DHS office.
- June 7 the administrative law judge (ALJ) overturns the denial and determines the client is eligible for Medicaid.
- June 14 the specialist processes the Medicaid opening.



If the medical payment was for care or services received in the retroactive period, the client is eligible for reimbursement for payments between April 5 (the original denial date) and June 24 (10 days after the second eligibility notice is mailed).

If the medical payment was for care or services after the retroactive period, the corrective action period covers payments made between May 3, (the date the hearing request was received by DHS) and June 24, (10 days after the second eligibility notice was mailed).

### ***Managerial Certification***

#### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

The local office manager or designee must review all hearing requests which are **not** resolved by the first-line supervisor. The purpose of the review is to ensure that local office staff have done the following:

- Applied DHS policies and procedures correctly.
- Explained DHS policies and procedures to the authorized hearing representative or, if none, the client.
- Offered appropriate referrals to the client.
- Considered requesting a central office policy clarification.

The local office manager must certify:

- The date the Notice of Prehearing Conference was sent to the authorized hearing representative and the client.
- The reason the hearing request could not be resolved.
- That eligibility was properly determined for this case.
- That the hearing request **cannot** be resolved except through formal hearing.

The managerial certification does **not** replace the hearing process. The hearing must be held as scheduled **unless** the authorized hearing representative or, if none, the client, withdraws the hearing request **in writing**.

### **MA Only**

If, prior to a hearing taking place, the local office overturns a Medicaid denial, see “Implementing the Local Evidentiary Decision” in this policy.

## CONTINUATION OF PROGRAM BENEFITS PENDING THE LOCAL EVIDENTIARY HEARING

### Denial at Application

#### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

The client is **not** entitled to benefits pending the hearing when the reason for the hearing request is a denial at application or for **FAP only**, a denial at redetermination. For **FAP only**, when the hearing request disputes a denial of expedited service, continue to process the application according to normal processing standards.

### Timely Hearing Request

#### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

A **timely hearing request** is a request received as provided in, Where to File a Hearing Request, within 11 days of the effective date of a negative action. When the 11th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if **received** by the following workday.

While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. On receipt of a timely hearing request, reinstate program benefits to the former level for a hearing request filed because of a negative action.

For **FAP only**, these actions apply **only** if the benefit period has **not** expired.

**Exception #1:** For **all programs**, do **not** restore benefits reduced or terminated due to a mass update required by state or federal law **unless** the issue contested is that the benefits were improperly computed.

**Exception #2:** For **all programs**, do **not** restore program benefits when the authorized hearing representative or, if none, the client and/or the authorized representative, specifically states in writing that continued assistance pending the hearing decision is **not** requested.

**Exception #3:** For **FAP only**, if the authorized hearing representative or, if none the client and/or the authorized representative, disputes the computation of supplemental benefits, issue the supplement as originally computed.

### Untimely Hearing Request

#### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

If an authorized hearing representative or, if none, the client and/or authorized representative, files an untimely hearing request, program benefits continue at the current level.

**Exception:** For **FAP only**, benefits must be restored to the former level **if**:

- The delay in filing the request was for good cause (for example, client hospitalized); **or**
- The change was the result of a mass update **and** the issue being contested is that FAP eligibility or benefits were improperly computed **or** that federal law/regulation is being misapplied/misinterpreted.

### SSI Disability/ Blindness Denials

#### **SSI-Related MA Only**

MA negative actions based on SSI disability/blindness denials **cannot** be deleted if DHS schedules a hearing regarding other issues raised in the hearing request.

However, if a hearing request is filed at SSA regarding the disability/blindness issue within the pended negative action period, follow the instructions in this policy under Timely Hearing Request.

DHS can **never** delete the negative action if the SSI disability/blindness denial is final as defined in Bridges Eligibility Manual (BEM) 260.

## When Changes Occur Pending the Hearing

### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

Pending the hearing decision, restored benefits must **not** be reduced or terminated **unless**:

- A change **not** related to the hearing issue occurs that affects the recipient's eligibility or benefits; **and**
- The authorized hearing representative or, if none, the client and/or the authorized representative, fails to request a hearing about the change after the subsequent notice of negative action.

**Note:** The client must continue participation with the Partnership, Accountability, Training, Hope, (PATH) program unless the hearing requested is a result of the PATH.

### **FAP Only**

Pending the hearing decision, restored benefits must **not** be reduced or terminated **unless**:

- The benefit period expires.

**Note:** The client may reapply and be determined eligible for a new benefit period and amount based on a new application.

- The hearing official makes a preliminary written determination at the hearing that:
  - The sole issue involves federal law, regulation or policy; **and**
  - The claim that the local office misinterpreted or misapplied the regulation or policy, or improperly computed the benefits, is invalid.

## RECOUPING PROGRAM BENEFITS

### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), and CDC**

If a hearing request is filed timely and program benefits are restored, recoup overissuances if:

- The request is later withdrawn.
- The hearing official denies the request.
- The authorized hearing representative or, if none, the client and/or the authorized representative, fails to appear for the hearing **and** the hearing official gives you written instructions to proceed.

**Note:** If instructions have not arrived within two weeks, call the hearing coordinator.

- The local evidentiary hearing decision upholds the department's action.

Calculate the overissuance from the date the negative action would have taken effect until the date the negative action is subsequently implemented.

If an administrative recoupment is processed to recover an overissuance due to a hearing, send a timely notice of case action. In this situation, the client is entitled to a hearing solely on the issue of the recoupment amount.

If a **cash** repayment is sought to recover an overissuance, requests for a hearing will **not** be granted **except** in FAP cases. Complete a DHS-3050 describing the current facts. Forward the hearing request and the summary to the hearing coordinator. hearing official will inform the authorized hearing representative or, if none, the client and/or the authorized representative, that a hearing will **not** be granted.

## WITHDRAWALS

### FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER

When any issue is still in dispute, do **not**:

- Suggest that the authorized hearing representative or, if none, the client and/or the authorized representative, withdraw the request; **or**
- Mail a withdrawal form to the authorized hearing representative or, if none the client and/or the authorized representative, unless it is requested.

When correcting a case action, follow procedures in the Corrected Case Action section of this policy. Do **not** ask for a withdrawal based on an action that will be taken in the future.

When the client's authorized hearing representative requests a hearing on behalf of the client, the client **may not withdraw** the hearing request without first providing the department with a written, signed notice stating he/she wishes to revoke the authorized hearing representative's authorization to represent the client. The authorization to represent must be revoked by the client before the client signs the DHS-18A, Hearing Request Withdrawal.

The hearing official will **not** accept a withdrawal if it fails to adequately address and dispose of all concerns in the hearing request. The hearing official will notify the hearings coordinator, the authorized hearing representative, the client and the authorized representative if a withdrawal is **not** accepted.

#### **Prior to Scheduling a Local Evidentiary Hearing**

#### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

When all issues are resolved and the authorized hearing representative or, if none, the client and/or the authorized representative, wishes to withdraw the request, **ask for a signed, written withdrawal**. The DHS-18A, Hearing Request Withdrawal, may be used for this purpose. The withdrawal must clearly state why the client, authorized representative or authorized hearing representative wishes to withdraw the request. Enter all identifying case information on the withdrawal, attach the original copy to the request and forward them to the hearing official. File a copy of the withdrawal in the legal packet of the case record. Update Bridges as necessary.

#### **After Scheduling a Local Evidentiary Hearing**

#### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

When all issues are resolved and the authorized hearing representative or, if none, the client and/or the authorized representative wishes to withdraw the request, do the following:

- **Client requests withdrawal while in the local office.** Ask for a signed, written withdrawal. The DHS-18A, Hearing Request Withdrawal, should be used. Remove the local evidentiary hearing from the schedule and notify the hearing official of the schedule change. The original request form must be placed in the case file at the local office.
- **Client requests withdrawal via telephone.** Ask the caller to promptly send a signed, written request for withdrawal to the local office. The client may obtain and complete a DHS-18A at the local office or online at: [www.michigan.gov/dhs-forms](http://www.michigan.gov/dhs-forms) in the Other category.

When the request for withdrawal is received, remove the local evidentiary hearing from the schedule and notify the hearing official of the change in schedule. File the original request in the case record.

#### **At The Time of Hearing**

When a client comes to the local office for a local evidentiary hearing and while at the local office decides to withdraw the request, allow the assigned hearing official the opportunity to discuss the withdrawal with the authorized hearings representative, or if none, the client and/or the authorized representative.

#### **STATE SSI PAYMENT (SSP)**

SSPs are made for only those months the recipient received a regular monthly federal benefit. This is shown on the single online query (SOLQ) as a recurring payment dated the first of the month. **SSPs are not issued for retroactive or supplemental federal benefits.**

The authorized hearing representative or, if none, the client and/or the authorized representative, may request a hearing when the client receives a DHS-430, Benefit Reduction Notice, stating that the SSP is being reduced or terminated; see BEM 660.

Handle these hearing requests in the same manner as all other benefit hearing requests.

When a hearing request (usually a DHS-430) is received, do all of the following:

- Log the receipt of the hearing request on Bridges. A timely hearing request will delete the negative action and issue a warrant equal to the previous quarterly payment.

**Note:** The cutoff date for entering the receipt of a timely hearing request for the State SSI Payment program is the payroll run date for case digit ending in 9; see RFS 106. If a hearing request was received timely but was not entered on Bridges by this date, fax a copy of the hearing request to the State SSI Payment Unit at (517) 335-7771, or email: SSI-Bridges-Coord@michigan.gov. The State SSI Payment Unit will issue a supplemental payment.

- Request a SOLQ.
- Prepare a Hearing Summary, DHS-3050.
- Introduce the SSI DATA page as evidence at the hearing to verify the action taken; see Exhibit I and Exhibit II in BEM 660.

**Note:** Contact the State SSI Payment Unit at (517) 335-3627 or email at SSI-Bridges-Coord@michigan.gov for assistance if the SOLQ fails to explain the action taken.

- Represent the department at the hearing.
- If the local evidentiary hearing decision reverses the action taken by the department, issue a supplemental payment.

Prepare for the hearing under the guidance of the SSI Payments Unit staff, as needed. SSI Payments Unit staff will **not** participate in the hearing but are available for consultation regarding:

- Preparation of the hearing summary.
- Presentation of the case at hearing.

If the SSI Payments Unit determines the disputed case action should be reversed, it will take all actions required. Inform the hearing coordinator of the reversal in writing. The hearing official will then dismiss the hearing request.



**CLIENT ACCESS TO  
THE CASE RECORD****FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

Clients, authorized representatives and their authorized hearing representatives have the right to review the case record and obtain copies of needed documents and materials relevant to the hearing. Send a copy of the DHS-3050 and all documents and records to be used by the department at the hearing to the authorized hearing representative or, if none, the client and/or the authorized representative. DHS-4772, Hearing Summary Letter, **must** be used for this purpose.

**Exception #1:** Do **not** disclose the identity of any person who reported information relating to an alleged program violation.

**Exception #2:** DHS **cannot** provide access to case records restricted by law or specific orders of a court; see BAM 310.

**Exception #3:** Access to certain mental health records is restricted; see BAM 310.

**NOTICE OF LOCAL  
EVIDENTIARY  
HEARING**

If the case action involved actions taken by the Office of Child Support/prosecuting attorney, fax a copy of the Notice of Hearing to the Office of Child Support/prosecuting attorney within 24 hours of receipt.

Fax number for the Office of Child Support: (517) 241-0844

If the action was taken by a prosecuting attorney, use the internet address below to obtain contact information:

[http://mi-support.cses.state.mi.us/partneractivities/maps/PA\\_Contact\\_List.asp](http://mi-support.cses.state.mi.us/partneractivities/maps/PA_Contact_List.asp)

## THE LOCAL EVIDENTIARY HEARING

### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

A hearing will take place if the local office and the authorized hearing representative or, if none, the client and/or the authorized representative were unable to resolve the issue(s) which prompted the hearing request.

The hearing coordinator must give advance written notice of the time, date, and place of the hearing. For **FAP only**, advance notice is specifically defined as the 10 day period preceding the date of the hearing. However, the authorized hearing representative or, if none the client and/or the authorized representative, may request less advance notice to expedite the hearing.

Clients have the right to all of the following:

- Representation by legal counsel, or other person of choice, at the client's expense.
- Barrier-free access to the hearing site.
- Interpreters: see BAM 105.
- Child care and transportation costs, including parking fees as necessary to ensure that full participation in the hearing process is possible.

## **Subpoenas**

### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

Request a subpoena if the specialist, the authorized hearing representative or, if none, the client and/or the authorized representative, requires either:

- A person outside DHS to come to a hearing to testify.
- A document from outside DHS to be offered as evidence at the local evidentiary hearing.

Send a memo requesting the subpoena to the hearing official. Attach a copy of the notice of hearing (or other indication of date, time and place of hearing) if available. Allow adequate time to mail

or hand-deliver the subpoena. The memo must include all of the following:

- Name and address of the person whose testimony is required.
- What document is to be subpoenaed.
- Why the person's presence and/or the document is needed at the hearing.
- How the person's testimony or the document relates to the hearing issue.

The requester is responsible for serving the subpoena and must pay the attending witness \$12 per day or \$6 per half-day plus the state travel rate per mile to and from the person's residence in Michigan; see Employee Handbook policy, EHP 400 Subpoenas Issued in Administrative Matters.

DHS employees are expected to participate in hearings **without** a subpoena when their testimony is required; see Employee Handbook policy, EHP 400, Subpoenas Issued in Administrative Matters.

If the specialist, the authorized hearing representative or, if none, the client and/or the authorized representative, requests that a DHS employee (for example, from another county or central office) participate in the hearing and that participation cannot be arranged, send a memo to the Office of Legal Service giving all of the following:

- The name and location of the employee.
- Why the employee's participation is needed.
- How the employee's testimony relates to the hearing issue.

The hearing official will decide whether to require the employee's participation.

### **Reimbursement for Transportation and Child Care**

#### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

Clients may request reimbursement of transportation and child care costs at the local evidentiary hearing. Clients must make the request on the hearing record and provide the hearing official the following information:

- Their name and address.
- For transportation expense reimbursement, the number of miles traveled round-trip for the hearing and/or receipts of any parking costs incurred.
- For child care expense reimbursement, the provider type (for example, child care center) and a signed and dated receipt from the provider showing the full names and ages of all children for whom care was provided.

The hearing official will issue the reimbursements when the total combined cost exceeds \$3.

**Note:** Reimbursements are computed using the least costly travel rate in the EHP 400 and child care costs in RFT 270.

### **In-Person Local Evidentiary Hearings**

#### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

Hearing coordinators schedule in-person hearings. In-person hearings are conducted in the local office that serves the client.

### **Late Arrival for the Local Evidentiary Hearing**

#### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

Local evidentiary hearings will be held on the scheduled date if the authorized hearing representative or, if none, the client and/or the authorized representative, arrives within 30 minutes of the scheduled time.

If the authorized hearing representative or, if none, the client and/or the authorized representative, arrives **more** than 30 minutes late, do **not** send the person away. Immediately speak with the hearings coordinator for direction on how to proceed. Whenever possible, the local evidentiary hearing will be held on the scheduled date.

**Failure to Appear  
for the Local  
Evidentiary  
Hearing****FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

Contact the hearing official if the authorized hearing representative or, if none, the client and/or the authorized representative, does **not** appear for the hearing within 30 minutes of the scheduled time. Do **not** take negative action until written authorization from the hearing official has been received. If the client, the authorized representative or authorized hearing representative later contacts DHS to have the hearing rescheduled, tell the person to write to the hearings coordinator.

**Persons at the  
Local Evidentiary  
Hearing****FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

An authorized hearing representative or the authorized representative may appear at the hearing with or without the client. Attendance of support person(s) is allowed, unless the hearing official determines that space limitations prohibit multiple persons in attendance.

The local office that initiated the case action that leads to the hearing request **must** present the case. If the client moved to another county, the county where the client resides must host the client, however, the office that took the action **must** present the case.

**Interim Assistance  
Recovery****State-funded FIP and SDA Only**

For **Interim Assistance Recovery disputes**, the local office IAR liaison must arrange for central office payment reconciliation staff to participate in the hearing by telephone.

**Presentation of the Case****FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

The local office and the authorized hearing representative or, if none, the client and/or the authorized representative will present their position to the hearing official, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. In most cases, the authorized hearing representative or, if none, the client, the authorized representative, and local office staff will be together in the hearing room with the hearing official.

Following opening statement(s), if any, the hearing official directs the DHS case presenter to explain the position of the local office. The hearing summary, or highlights of it, may be read into the record at this time. The hearing summary may be used as a guide in presenting the evidence, witnesses and exhibits that support the department's position. Always include the following in planning the case presentation:

- An explanation of the action(s) taken.
- A summary of the policy or laws used to determine that the action taken was correct.
- Any clarifications by central office staff of the policy or laws used.
- The facts which led to the conclusion that the policy is relevant to the disputed case action.
- The DHS procedures ensuring that the client received adequate or timely notice of the proposed action and was afforded all other rights.

**Note:** Both the local office, the authorized hearing representative or, if none, the client and/or the authorized representative, must be given adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence.

## Admission of Evidence

### FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER

The hearing official will follow the same evidentiary rules used in circuit court to the extent these rules are practical in the case being heard. But, the hearing official may admit and give probative effect to evidence of a type of commonly relied on by reasonably prudent persons in the conduct of their affairs. The hearing official must ensure that the record is complete, and may do the following:

- Attempt to ensure all the necessary information is presented on the record.
- Be more lenient than a circuit judge in deciding what evidence may be presented.
- Refuse to accept evidence that the hearing official believes is:
  - Unduly repetitious.
  - Immaterial.
  - Irrelevant.
  - Incompetent.

**Note:** The hearing official may not act as an advocate for either party.

Either party may:

- State on the record its disagreement with the hearing official's decision to exclude evidence and the reason for the disagreement; **and**
- Object to evidence the party believes should **not** be part of the hearing record.

When refusing to admit evidence, the hearing official must state on the record the nature of the evidence and why it was **not** admitted. The hearing official may allow written documents to be admitted in place of oral testimony if the hearing official decides this is fair to both sides in the case being heard.

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**LOCAL  
EVIDENTIARY  
HEARING  
DECISIONS****FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

The hearing official determines the facts based only on the evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. The hearing official issues a local evidentiary hearing decision which becomes final **unless** appealed to the Michigan Administrative Hearing System within **15** days of the date the local evidentiary hearing decision notice was mailed.

The Local Evidentiary Hearing Notice will identify:

1. The right to request a rehearing/reconsideration. See Rehearing/Reconsideration in this policy.
2. The right to request a state level review. See State Level Review in this policy.
3. The client's right to a judicial review. See Judicial Review in this policy.

The hearings coordinator mails the local evidentiary hearing decision to the authorized hearing representative, the client and/or the authorized representative and provides a copy to the case worker for the client's case file. The client or the authorized hearings representative have the right to appeal a final decision to the Michigan Administrative Hearing System within 15 days after the mail date on the local evidentiary hearing decision. Appeals to the Michigan Administrative Hearing System must be made directly to MAHS by:

Fax: (517) 335-6088

U.S. mail:

Michigan Administrative Hearing System  
PO Box 30639  
Lansing, MI 48909



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## Implementing the Local Evidentiary Hearing Decision

### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

All hearing decisions **must** be recorded in Bridges, on the Hearing Restore Benefits screen.

Some hearing decisions require implementation by the local office. Implement a local evidentiary hearing decision within **10** calendar days of the mailing date on the local evidentiary hearing decision and/or the decision and order.

**Note: When the department is upheld, do not provide a notice of case action. The local evidentiary hearing decision and/or the decision and order serves as notice of the action.**

If unable to determine what action is required, contact the policy clarification mailbox. See; BEM 100 Introductions. DHS policy staff will clarify the situation with the hearing coordinator.

If a hearing decision or a local office review results in Medicaid eligibility, send or give the client a DHS-334, Reimbursement Notice. This notice explains the procedure for a client to follow to request reimbursement of paid medical bills from the Department of Community Health (DCH).

Send a DHS-45, DHS to DCH/MiChild/FTW, transmittal and a copy of the DHS-334, Reimbursement Notice, that was sent to the client to:

Department of Community Health  
Medical Services Administration  
Eligibility Quality Assurance Section /Reimbursement  
400 S. Pine St., 5th floor  
Lansing, MI 48913

The following hearing decision is **not** implemented by the local office; decisions about Interim Assistance Recovery disputes are implemented by central office payments reconciliation staff.

**Note:** See BEM 660 for instructions on implementing decisions about State SSI Payments.

**Certifying  
Implementation of  
the Local  
Evidentiary  
Hearing Decision**

**FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

When a decision requires a case action different from the one originally proposed, a DHS-1843, Administrative Hearing Order Certification, is sent with the local evidentiary hearing decision.

Complete the necessary case actions within **10** calendar days of the mailing date noted on the local evidentiary hearing decision. Complete and send the DHS-1843 to the hearing coordinator to certify implementation and place a copy of the form in the case file.

If it is impossible to implement the local evidentiary hearing decision as written within **10** calendar days, a local office manager or hearings coordinator should contact the hearing official who issued the decision. The hearing official will offer advice on how to proceed. A local office manager or hearings coordinator is responsible to follow up to ensure implementation of the local evidentiary hearing decision is completed.

**Additional Low-  
Income Medicare  
Beneficiaries  
(ALMB)**

**MA Only**

The hearing official cannot order prior months of ALMB eligibility when the prior month(s) is before January of the current calendar year.

**Example:** A client applies in December 2012 and the specialist determines eligibility in January 2013. The MA begin date is January 2005. There is no eligibility for December 2012 because it is before January of the current year.

**Notifying Partners**

If the Office of Child Support/prosecuting attorney or the Office of Inspector was involved in the hearing, a copy of the decision and order **must** be faxed to the Office of Child Support/prosecuting

**STATE LEVEL  
REVIEW**

attorney within **24** hours of receipt. See; Notice of Hearing, in this policy.

**FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

The department, attorney general, client and/or the authorized representative, or authorized hearing representative may file a written request for a state level review. The request must:

- Be made within **15** days of the mail date on the Local Evidentiary Hearing Decision.
- Be in writing.
- Include a copy of the Local Evidentiary Decision.

Be made directly with the Michigan Administrative Hearing System by fax or U.S. mail.

Fax to: (517) 335-6088

U.S. Mail: Michigan Administrative Hearing System  
PO Box 30639  
Lansing, MI 48909

**FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

Requests for a state level review will be scheduled for an administrative review of the record unless a *de novo* hearing is specifically requested.

**FAP Only**

Requests for a state level review will be scheduled for a *de novo* hearing unless an administrative review of the record of the local evidentiary hearing is specifically requested.

**Administrative Review of the Record:** Means a review of the local evidentiary hearing digital recording, the facts of the case, the applicable law, and evidence presented at the local evidentiary hearing.

***De novo* Hearing:** Means a new hearing.

If the Michigan Administrative Hearing System holds in favor of the client eligibility will be determined or benefits will be restored as directed by the state level review decision and order.

The Michigan Administrative Hearing System has 45 days from the date the Request for Hearing was received to schedule and conduct the state level hearing or administrative review and issue the decision and order.

## THE STATE LEVEL HEARING

### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

Michigan Administrative Hearing System must give advance written notice of the time, date and place of the hearing. For **FAP only**, advance notice is specifically defined as the 10 day period preceding the date of the hearing. However, the client or authorized hearing representative may request less advance notice to expedite the hearing.

Clients have the right to all of the following:

- Representation by legal counsel, or other person of choice, at the client's expense.
- Barrier-free access to the hearing site.
- Interpreters: see BAM 105.

Child care and transportation costs as necessary to ensure that full participation in the hearing process is possible.

### ***State Level Telephone Hearings***

### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

Michigan Administrative Hearing System schedules a telephone hearing for most cases. However, at the request of the authorized hearing representative or, if none, the client and/or authorized representative, Michigan Administrative Hearing System must schedule an in-person hearing.

Telephone hearings are conducted from the assigned ALJ's office. Speaker phones are used to communicate with participants at the local office.

**Late Arrival for the  
State Level  
Hearing****FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

State level hearings will be held on the scheduled date if the client or authorized hearing representative arrives within 30 minutes of the scheduled time.

If the client or authorized hearing representative arrives **more** than 30 minutes late, do **not** send the person away. Immediately call Michigan Administrative Hearing System for direction on how to proceed. Whenever possible, the hearing will be held on the scheduled date.

**Failure to Appear  
for the State Level  
Hearing****FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

Contact Michigan Administrative Hearing System if the client or authorized hearing representative does **not** appear for the hearing within 30 minutes of the scheduled time. Do **not** take negative action until written authorization from Michigan Administrative Hearing System has been received. If the client or authorized hearing representative later contacts DHS to have the hearing rescheduled, tell the person to:

- Write the Michigan Administrative Hearing System at P.O. Box 30639, Lansing, MI, 48909-8139; **or**
- Call the Michigan Administrative Hearing System at the toll-free number included on the DHS-26A.

**Persons at the  
State Level  
Hearing****FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

An authorized hearing representative may appear at the hearing with or without the client. A support person may be present **if** the client states on the record that the person's presence is requested.

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## **Presentation of the Case in State Level Hearings**

### **FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

The local office and client or authorized hearing representative will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. In most cases, the client or authorized hearing representative and local office staff will be together in the hearing room and will speak into a speaker telephone. The ALJ will be on the other end of the phone line.

Following the opening statement(s), if any, the ALJ directs the DHS case presenter to explain the position of the local office. The hearing summary, or highlights of it, may be read into the record at this time. The hearing summary may be used as a guide in presenting the evidence, witnesses and exhibits that support the department's position. Always include the following in planning the case presentation:

- An explanation of the action(s) taken.
- A summary of the policy or laws used to determine that the action taken was correct.
- Any clarifications by central office staff of the policy or laws used.
- The facts which led to the conclusion that the policy is relevant to the disputed case action.
- The DHS procedures ensuring that the client received adequate or timely notice of the proposed action and affording all other rights.
- The local evidentiary hearing decision.

Both the local office and the client or authorized hearing representative must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence.

**Admission of  
Evidence****FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

The ALJ will follow the same rules used in circuit court to the extent these rules are practical in the case being heard. The ALJ must ensure that the record is complete.

**STATE LEVEL  
DECISION AND  
ORDERS (D&O)****State Level  
Administrative  
Review****FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

A Michigan Administrative Hearing System administrative law judge will review the entire record established at the local evidentiary hearing. The administrative law judge will consider the admitted evidence, the digital recording of the local evidentiary hearing, and the applicable law and policy, and will reach an independent decision.

The ALJ determines the facts based only on evidence introduced at the state level hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied.

**State Level  
Administrative  
Review Decision  
and Order****FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

The ALJ determines the facts based on the recorded testimony and the evidence admitted at the local evidentiary hearing, draws a conclusion of law, and determines whether the DHS policy was appropriately applied.

Michigan Administrative Hearing System mails the final hearing decision to the client, the authorized hearing representative and the local office. In most cases, the client has the right to appeal a final decision to circuit court within 30 days after that decision is received.

**Implementing the  
State level  
Decision and  
Order****FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

All state level hearing decisions **must** be recorded in Bridges, on the Hearing Restore Benefits screen.

Some hearing decisions require implementation by the local office. Implement a decision and order within 10 calendar days of the mailing date on the hearing decision. **Do not provide a notice of case action. The D&O serves as notice of the action.**

**Certifying  
Implementation of  
the State Level  
Decision and  
Order****FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

When a state level decision requires a case action different from the one originally proposed, a DHS-1843, Administrative Hearing Order Certification, is sent with the D&O.

Complete the necessary case actions within 10 calendar days of the mailing date noted on the state level hearing decision. Complete and send the DHS-1843 to MAHS to certify implementation and place a copy of the form in the case file.

If it is impossible to implement the D&O as written within 10 calendar days, a local office manager or hearings coordinator should call Michigan Administrative Hearing System at (517) 373-0722 and speak with the supervisor of the ALJ who issued the D&O. The supervisor will offer advice on how to proceed. A local office manager or hearings coordinator is responsible to follow up to ensure implementation of the D&O is completed.

**Rehearing/  
Reconsideration of  
State Level Review  
Decision and  
Order****FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**



A **rehearing** is a full hearing which is granted when:

- The original state level hearing record is inadequate for purposes of judicial review.
- Misapplication of manual policy or law in the state level hearing decision, which led to a wrong conclusion.
- Typographical, mathematical or other obvious error in the state level hearing decision that affects the rights of the client.
- There is newly discovered evidence that existed at the time of the state level hearing or administrative review that could affect the outcome of the state level hearing decision.

A **reconsideration** is a paper review of the facts, law and any new evidence or legal arguments. It is granted when the state level review record is adequate for purposes of judicial review and a rehearing is **not** necessary, but one of the parties believes the hearing official failed to accurately address all the relevant issues raised in the hearing request.

#### **Rehearing/ Reconsideration Request**

The department, attorney general, authorized hearing representative or client and/or the authorized representative may file a written request for rehearing/reconsideration.

The department, attorney general, authorized hearing representative, or the client and/or the authorized representative must specify all reasons for the request.

#### **Local Office Requests for Rehearing/ Reconsideration of State Level Decision and Order**

A written request from the local office for a rehearing/reconsideration must be sent to the Division of Family Program Policy (DFPP) in central office or to the Michigan Department of Education/CDC

Policy for a recommendation. The written request must include all of the following:

- A copy of the local evidentiary hearing decision.
- A copy of the state level decision and order.
- A copy of the hearing summary and all evidence presented at the state level hearing.
- Explanation of why a rehearing/reconsideration is appropriate.

**Send requests to:**

Division of Family Program Policy  
Grand Tower Building, Suite 1307  
PO Box 30037  
Lansing MI 48909

Fax to: (517) 335-7771

Or email the appropriate policy email box per, BEM 100.

**CDC Only**

Send requests to:

Michigan Department of Education  
Child Development and Care  
PO Box 30008  
Lansing, MI 48909

Fax to: 517-241-8679

Or email Policy-CDC Policy-CDC@michigan.gov.

If the Division of Family Program Policy or CDC Policy supports the local office request, the request shall be made a part of the record. Division of Family Program Policy will forward the request to all parties including: Michigan Administrative Hearing System, the client, authorized representative, authorized hearing representative, and the requesting local office.

**Authorized  
Hearing  
Representative or  
Client Requests for  
State Level  
Decision and  
Order Rehearing/  
Reconsideration**

A written request made by the authorized hearing representative or, if none, by the client and/or the authorized representative, must be faxed to:

(517) 335-6088- Attention: Michigan Administrative Hearing System Client Requested Rehearing/Reconsideration of state level decision and order rehearing/reconsideration.

A request must be received in Michigan Administrative Hearing System within 30 days of the date the hearing decision is mailed.

**Granting A  
Rehearing/  
Reconsideration  
for State Level  
Decision and  
Order Rehearing/  
Reconsideration**

**FIP, SDA (Eligibility), RCA, FAP, MA (Eligibility), CDC and SER**

The Michigan Administrative Hearing System will either grant or deny a rehearing/reconsideration request and will send written notice of the decision to all parties involved.

Michigan Administrative Hearing System grants a rehearing/reconsideration request if:

- The information in the request justifies it; and
- There is time to rehear/reconsider the case and implement the resulting decision within the standard of promptness; see STANDARDS OF PROMPTNESS in this policy.

If the client and or the authorized representative or authorized hearing representative made the request and it is impossible to meet the standard of promptness, the client and/or the authorized representative or authorized hearing representative may waive the

timeliness requirement in writing to allow the rehearing/reconsideration.

If Michigan Administrative Hearing System grants a reconsideration, the state level hearing decision may be modified without another hearing unless there is need for further testimony.

If a rehearing is granted, or if the need for further testimony changes a reconsideration to a rehearing, the Michigan Administrative Hearing System will schedule and conduct the hearing.

## JUDICIAL REVIEW

The client or the authorized representative has the right to appeal a Michigan Administrative Hearing System state level decision to the circuit court.

## LEGAL AUTHORITY

7 CFR 273.15  
42 CFR 431.201 et. seq.  
45 CFR 205.10  
45 CFR 400.54

MCL 400.9  
MCL 400.37  
MCL 24.271 through 24.287

Michigan Administrative Code 400.901 et. seq.

**MANUAL  
MAINTENANCE  
INSTRUCTIONS**